

REGULAR COUNCIL MEETING

June 3, 1991

7:30 p.m.

Council present: Funke, Simshaw, Pedersen, Vergeront, Malgren, Kersich

Others present: Rich Stripp, Doug Martin, Conrad Peterson, Bette Kirscher, Joan Hess, Virgil Hess, George Hess, Brett McCrum, Ron Buzzard, Bob Fulton, Kaye Stam, Gene Scott, Frank Thomas, Ric Smith, Jerry Sorenson, James Boyle, Gene Nobles, Carl Martinson, Wayne Mahugh, Aggi Loeser, Phil Grainey

Mayor James W. Jones presiding:

APPROVAL OF MINUTES: Clerk Devlin made the following addition to page six, paragraph one, summary condition number three (3) to read; "Reference (in original condition #13) to "Reserved..." for purposes of clarification. Conrad Peterson reviewed the letters of May 14 and May 22 from the City of Polson regarding approval of the project and noted the discrepancies between these letters referencing this condition. He asked which letter was the official record. Devlin said the minutes of the City would stand as the official document. She said the language addition being made to the May 20 minutes clarified that summary condition number three in the Lake County Land Services report was actually an amendment to original condition number thirteen and not an additional condition. The minutes were approved as amended.

CHAMBER REQUESTS-USE OF DUCHARME PARK: Frank Thomas, past President of the Chamber, said the Chamber needed a permanent home for its' office. They had approached the State Highway Department about a permanent lease at their present location next to Lions Park, however, this was state right-of-way. There also were no restroom facilities on site which was a problem in considering the site on a year round basis. There was enough traffic into Polson to warrant the Chamber having a visible office for tourists. Multiple locations had been looked into, mortgage payments had been budgeted, but lack of visibility and parking area had prevented them from finding a location thus far. Ducharme Park was centrally located and visible from the highway. They had approached the Park Board about putting up a permanent building based on plans drawn up several years ago. At that time, there had been a problem with parking access they now thought they could solve. They had received tentative approval from the Park Board. The Chamber would like a long term lease agreement subject to city approval of plans submitted. The Chamber would assume all maintenance for the park which could help alleviate some city costs. They would not be disturbing any water, sewer or storm drain facilities and would keep any tree cutting to a minimum. Malgren said the Park Board motion was to rent or lease Ducharme Park to the COC with final plans for a permanent building and any on site parking to be brought before the Park Board for final approval. Thomas said, according to the highway department, seventh street had not been present years ago for access to the park so this could be a possibility. Malgren said it had been present, however, stop signs had been added. Jones said the turn lane on Highway 93 had been added since the prior plans had been reviewed as well. Thomas said financially, the Chamber could not afford other highway sites. Kersich said he sat on the Chamber Board, as well as the Council, and any plans submitted for approval would be done properly. Pedersen said he would like to see more detail before considering this project. It seemed to be a gathering spot for kids and this would be his only objection to other use. Thomas said with the dimensions of the park they were not talking about

eliminating it altogether. George Hess asked how the four lane highway planned in the future would affect this area. Jones said four lane would end at the "Y". Thomas said the height of the building would not affect property owners above the park to his knowledge. Jones said he would appoint a council committee to meet with the Chamber of Commerce and Park Board to review the possibilities. Thomas said this would be fine but, with the tremendous amount of planning to be done, he hated to proceed without Council indication they were in favor of the project. Jones did not feel the Council had a problem with the project but they would like to know how it would be done. Jones appointed Simshaw, Pedersen and Malgren to meet with the Chamber of Commerce to discuss the project.

CHAMBER REQUEST-REZONING PROJECT: Ric Smith said the Chamber of Commerce and Community Development Agency had met recently and discussed the appearance of Polson and growth of the community. An overriding concern seemed to be growth incompatible with the community. Ric said growth needed to encourage business as well as tourism. The Chamber Board of Directors were asking the city council to make review of city planning and update of zoning a priority. Ric said Jerry Sorenson's estimate to do this was approximately \$20,000, half of which would be the city's responsibility. He noted things such as large billboards beside the road would not encourage people to come and spend their money in Polson. A community plan would encourage developers and businessmen by setting forth city standards and long range goals. Mayor Jones said this particular project had been started three years ago, however, financing had been a problem. He said it was a priority for the city and they would again consider it at budget time.

MACK ATTACK STREET CLOSURE-FIRST STREET EAST: Devlin said Chip Kurzenbaum had asked approval for the street in front of Tom's Tackle to be closed for the Mack Attack as it had the previous year. Motion Vergeront, second Funke to approve closing First Street East for one-half block from the Fire Station to Highway 93 on June 22 and June 23 provided a fire lane would be kept open. Vergeront asked if they would clean the street afterwards. Devlin said it had not been a problem last year and she was sure they would take care of it. Motion carried unanimously.

RESOLUTION 561-WOODBINE: Manicke gave some history to the Council before presenting a resolution authorizing the city to purchase lots in the Woodbine Subdivision from Lake County. She posted a map of Woodbine showing the lots in question in green. There were 29 lots up for tax sale with four full years of delinquent taxes due plus Lot 6, Block 6 whose taxes were due July of 1991 for a total of 30 lots. The subdivision was platted and constructed in January of 1978 with 137 lots. There were 30.77 acres in lots and 7.99 acres in roadways. The project was financed by SID bonds for a total of \$795,000. Present use of land; 60 homes (44%), 18 city lots, 30 lots up for tax sale, 26 lots with various owners and 3 lots on which the city water tanks were located. If the city were to buy the 30 lots up for tax sale they would own 35% of the lots. City acquired 44 lots by quiet title action in June of 1986 of which 26 have been sold. Of the lots being considered, delinquent taxes and SID's date to 1983. Outstanding SID bonds total \$283,000 to be paid by January 15, 1999. District #24 has borrowed \$157,227.59 from the Revolving SID fund which must be paid back after the bonds are paid in full in the amount of principal plus accrued interest. Annual assessments collected each November equal approximately \$7000 (a portion of what is due at that time). An interest payment of \$21,225 is due in January 1992. At the present time, the City is ahead on bond retirement by \$35,000. With the January payment they could fall behind again. Acquisition of the Woodbine lots will

require legal support, title search and appraisal (minimum of a drive-by appraisal) to set a market price on the lots. Grainey said Resolution 561 had been prepared which must be passed and sent to the County as the first step in the process. He had submitted the first draft of the Resolution to the County Treasurer for review and had received no comment on it. Manicke called attention to the last paragraph stating "...in exchange for payment by the City of the delinquent property tax assessments..." she assumed this meant real estate tax payments. Grainey said as opposed to SID assessments, this was correct. Manicke further clarified the County was asking for payment of these taxes upon sale of the lots to the City. Grainey said this was true. Pedersen asked if the County had changed their position on this as they had indicated in past discussions they would be willing to wait for the delinquent real estate taxes upon the sale of each lot. Grainey was not sure this could be done. Manicke said the amount owing on the 30 lots through 1989 for real, soil conservation, cemetery board, irrigation and O & M taxes was approximately \$16,500. 1990 taxes would have to be accrued as well as "x" number of days for 1991. She indicated she would like to go back and negotiate. Grainey said this was the first time he was aware there had been discussion about deferred payments and he was uncertain the County could assign tax sale certificates without cash on the table. He admitted it would be in the City's best interest if it could be accomplished. He suggested tabling the Resolution and exploring the legal possibility. Pedersen said it probably came about because the City would be assuming costs once the lots were acquired, however, at the minimum they would need to show goodwill and intent. Grainey asked if the City had the cash. Manicke said they did not without an emergency budget. Malgren asked if there was a way to indicate intent if the County indicated good faith. She did not see how the City could come up with the money. Manicke said it would be difficult. The Auditors had indicated they should not be using SID funds to pay back taxes and these should be paid from the General Fund. Since funds were tight in the General Fund, they had paid the delinquent taxes from the SID funds as lots were sold and money available. A majority of the money paid for the delinquent taxes would come back to the General fund and other funds as the mills were applied, so she understood the Auditor's comments. Pedersen suggested the Resolution be amended as follows; "...that the City of Polson hereby request the Lake County Board of County Commissioners to convey to the City their interest in the duplicate tax sale certificates held by the County with respect to said lots, in exchange for payment upon sale of lots by the City..." He asked if they could pass this tonight, submit it to the County and, if it were unacceptable, look for the capital needed to pay the taxes. Grainey said they could. Kersich said this was a fairly speculative statement and they should provide something more concrete such as half of the taxes to be paid in two years. Pedersen suggested they negotiate the first alternative. Manicke said there was a possibility of some sales in those lots but she was uncertain how much money they would be receiving from those sales. Malgren asked if Manicke was saying she did not want the other lots. Manicke said there was some marketability for the lots but she could not sell them all in four years. Motion Pedersen, second Funke to approve Resolution 561 as amended by Pedersen. Motion carried unanimously.

BOB SYVRUD REQUEST: Jones told the Council Bob Syvrud had asked for permission to work from city property to finish rip rap on his property (near the city lagoons) and was willing to extend the rip rap into the city property. Malgren said he would need a permit from the Soil Conservation District to do any additional work. Jones said the permission was his business and the request was the city's. Kersich asked how long it would take. Jones said he had been there

approximately three weeks already. Jerry Sorenson asked if he had a 310 permit. Malgren said he did not but if additional work were done it would require a 310 permit. Wayne Mahugh confirmed this. Vergeront said this was a different area. Motion Vergeront, second Funke to give Bob Syvrud permission to work from city property for purposes of rip rap installation. Motion carried with Malgren abstaining.

SAFEWAY STREET CLOSURE REQUEST: Pedersen felt the City should do anything within reason, in fairness to the taxpayers of Polson, to facilitate keeping the Safeway store downtown. He proposed the City enter into preliminary discussion with Safeway regarding such street closure to indicate interest in the project. He said it would be a great improvement if a new store were to be built in the downtown area. He asked for approval from the Council allowing the Mayor to correspond with the Safeway realtor indicating interest in the project and willingness to discuss street closure. Motion Pedersen, second Malgren to allow the Mayor to correspond with the Safeway representatives on street closure with regard to Safeway expansion. Motion carried unanimously.

RESOLUTION 560-FAIR HOUSING: Jones said this Resolution had been requested during the recent audit of the Water Construction CDBG Grant by the Department of Commerce. It was thought to have been done during the West Side Project but no record of this could be found. Motion Malgren, second Kersich to approve Resolution 560 committing the City of Polson to do all within its power to eliminate prejudice, intolerance, disorder and discrimination in housing. Motion carried unanimously.

Note: Jones called attention to the letter received from Dave Cole of the Department of Commerce regarding the recent Audit of the Water Construction CDBG grant and praise for Devlin and Campbell for their efforts in the grant process.

RESOLUTION 556-DEPRECIATION POLICY: Pedersen said in response to previous audits they should be more specific with their depreciation useful lives. Devlin had contacted the Public Service Commission who indicated they did not get involved with this and it did not affect their rates. The PSC deferred to the Department of Commerce. Pedersen suggested they adopt the Internal Revenue Class Life Codes of 1986 and indicated the following lives be adopted;

Buildings and Structures	40 years
Improvements Other Than Buildings	10 years
Furniture, Machinery and Equipment	10 years
Sewer Lines & Pump Stations	50 years
Water System	50 years

Motion Malgren, second Funke to approve Resolution 556 with the above changes. Motion carried unanimously.

OUTSTANDING WARRANT CANCELLATION: Motion Malgren, second Pedersen to cancel outstanding warrant #7591 dated 5/08/90 to Roger LeLusche (Water Deposit Refund) for \$26.37 per MCA 7-6-4303. Motion carried unanimously.

WATER CONSTRUCTION PROJECT UPDATE: Devlin asked if there were any questions regarding the printed report on the Water Construction Project. The report indicated claims written to date, total spent to date and a breakdown of what had been paid to Pack and Company, Inc. as well as the Engineer. Pedersen clarified the \$12,895.97 amount was pending and had not been paid to the Engineer. He asked if this was part of the amount to be paid over the basic contract they had discussed previously with regards to extension of the construction contract. Devlin said Grainey and Campbell had

reviewed this and indicated the numbers expressed in a recent letter from the Engineer (total Basic Contract to run approximately \$133,000) were essentially correct. She said Campbell was in agreement to pay these additional services due to extended contract time. Grainey confirmed he and Campbell had reviewed the charges and discussed several areas in question with the Engineer, one of which was a final inspection charge which appeared beyond the scope of what was permitted by the contract. He said he could review the numbers again and make a final report to the Council at the next meeting. Motion Pedersen, second Malgren to table the Water Construction Project review. Motion carried.

NARROWS CONDOMINIUM PROJECT: Grainey said they had received a letter from Don Peterson, George Hess's attorney, addressing several concerns. One was a building permit, which he would let Bob address, another the landscaping plan. Jerry Sorenson said the landscaping plan had been accepted as part of the final plat review and approved by the City Council. Grainey said the principal area of dispute appeared to be installation of a four foot chain link fence along both boundary lines prior to commencement of construction. At this time, the contractor had installed temporary fences for the purpose of establishing boundary lines. Phil said Mr. Hess was complaining this was not in compliance with the conditions in the subdivision approval. The Developers were requesting relief from the requirement to install a permanent fence at this time to prevent running into the fence during construction and landscaping phases. Don Peterson had been made aware of a meeting called between Mayor Jones, Jerry Sorenson, Bob Fulton and Grainey to discuss this matter. It was indicated at this meeting one of the potential areas of concern seemed to be proper grading to allow surface drainage to the container area. Installment of a fence at this time would make this grading difficult. Consensus of opinion at this meeting was the Developer request was reasonable and there was no purpose to be served by installing the permanent fence at this time. Since then, a letter had been received from property owners to the east of the project indicating they wished to discuss alternatives to installation of a permanent fence on that side. He asked the Council to consider a "fall-back condition" whereby if the Developers and eastern boundary Property Owners were unable to compromise on a different type of barrier, they could return to the fence alternative. He suggested the Council let Mr. Hess and the Developer give their comments and review the matter further.

George Hess-Asked that the City meet the commitments of the final approval plan and require the Developer to install the chain link fence prior to commencement of construction. He referenced several letters from the Planning Board as well as Patricia Rowley documenting this fact. He indicated the primary issue was integrity.

Jones-Asked if Hess felt the Developer would not build the fence.

Hess-Did not feel they would build it prior to construction. Difference between chain link and temporary fence would be the level of care taken during excavation and construction on the part of the Developers. As the result of movement of the property boundary at the last meeting, he had a hole 10-12 feet deep along the eastern boundary of his house. For this reason, he would feel more comfortable with a permanent fence.

Brett McCrumb-Would like to install the fence in a proper manner and the excavation indicated by Mr. Hess was for footings and a retaining wall to hold up the bank as well as to place the fence upon. Grading was important as well and they were asking to do it one time and one time only. With

the temporary barrier there had been no trespassing so far.

Jones-Asked if the fence was installed on top of the retaining wall.

McCrum-Yes.

Hess-The concrete wall would not extend the length of the property and there was still a great deal of fence to be installed below the retaining wall.

McCrum-The remainder of the property had to be graded for proper drainage.

Jones-Asked how Hess expected them to install the fence prior to placing the retaining wall.

Hess-Was not his problem and the city had commitments. He had landscape plans of his own which he could not accomplish until the fence was installed.

Virgil Hess-Asked if the fence would be installed at the end of excavation.

McCrum-Yes, as soon as possible.

V.Hess-What was the timetable for this?

McCrum-As soon as the concrete work and grading were done, a month at the most.

Pedersen-Asked why the Developer agreed to the stipulation two weeks ago when they could not accomplish this under the circumstances. Also asked if building had commenced prior to issuance of a building permit.

Bob Fulton-Indicated he had given the Developer verbal assurance he did not consider sod stripping a building activity and therefore did not require a building permit. He said the building permit had been obtained since then in compliance with commencement of the project.

V.Hess-Asked if sod stripping constituted site preparation.

Fulton-Felt this was a narrow interpretation and he did not view it as such.

Vergeront-Asked when foundation and wall would be set.

McCrum-Would start in morning.

Vergeront-Asked-lineal feet of wall and footings.

McCrum-Not sure.

Vergeront-Asked how long before the posts could be set.

McCrum-Hopefully be done in a couple of weeks.

Vergeront-Asked if remainder of fence could be done at the same time.

McCrum-Grading for drainage system would still need to be done.

Conrad Peterson-Elaborated on grading with regards to drainage system.

Vergeront-Asked if concrete and grading could be done simultaneously.

C.Peterson-Hope to.

McCrumb-Project was planned so all of excavation could be accomplished at one time, both for grading and concrete work.

Pedersen-Asked Jerry if project was approved on basis fence would be installed prior to construction commencement.

J.Sorenson-This was true, but there was a real handicap to completion of the project if the fence was put in first. This had been a condition imposed by the City Council, not the Planning Board, and it was his opinion the temporary fence would accomplish the same purpose of prohibiting trespass. Felt it impractical to install the fence first and noted it was hard to presuppose every issue in a construction project.

Fulton-A building permit had been issued to demolish a portion of the existing house. Strict interpretation of the conditions would not have allowed this, however, they could not have gained access to the property to install a fence without tearing down a portion of the structure. There were unanticipated problems in every project which required some flexibility to get a project from start to finish. It was unreasonable to anticipate all of the details.

Bette Kirscher-She had not really wanted a fence all along but wanted boundaries. She had understood this could be worked out between the property owners and the Developer and did not feel it needed to be the same on both boundaries.

G.Hess-Agreed with Bette, the people on the east boundary could negotiate for themselves.

Jones-This was not the way it was presented to the Council and, therefore, the decision by the Council to fence both sides was made.

G.Hess-There was a misunderstanding then. After the latest boundary change, he asked they take care of both west boundaries.

Grainey-There really was no reason for the Council to oppose the request from the property owners on the eastern boundary. If negotiations did not produce results, they could fall back to a chain link fence. There was a need to address the west side, however.

Jones-Indicated the eastern boundary could become an issue should George contest this at the end of the project.

Grainey-George says he doesn't care.

Jones-Should be taken out of the approved plan then.

Grainey-Can change that condition of approval to reflect the desires of the property owners on the eastern boundary.

G.Hess-Mrs. Kimble, to the west of him, also wishes the fence but she was not available to comment.

Lucy McCrumb-This property owner does not adjoin the development property, however.

G.Hess-This is true, but she is concerned about trespassing as well.

Grainey-Suggest the Council physically look at the boundary line and make their decision.

(General consensus-Council did not wish to do this)

Pedersen-The question is, do we go with the contractual

agreement or not? Someone needs to decide.

Vergeront-What is the shortest length of time the fence can be installed the length of the property?

B.McCrumb-Two weeks to one month depending upon the weather.

Vergeront-This would be the grading and footings for the fence only.

Conrad Peterson-Plan to pour the footings for the project at the same time, dirt from the footings is needed for the grading down below. Once the concrete wall and footings are in, the fence can be finished on down the grade. If it doesn't rain, this could be less than a month.

G.Hess-Is it possible the north end contouring will require a retaining wall to maintain the land form needed there and will dirt be piled on his property to do this?

B.McCrumb-No, will grade from his boundary to their sump. There will be no retaining wall, simply grading.

Malgren-Saying you cannot do a lot of the grading without excavation first?

Vergeront-Yes, they need the fill from the excavation.

G.Hess-I ask that the Council meet its' commitment.

Vergeront-George, they have to put in the retaining wall before they have a place to put the fence. Otherwise they can place the fence on your property but I don't think you want that.

Jones-You have to use some common sense in this instance.

G.Hess-So what are we looking at for timing?

Vergeront-He said a month.

G.Hess-Does the Council feel they will meet this commitment?

Motion Funke, second Kersich to allow the contractor three weeks to complete the fence, weather permitting.

Bob Fulton-Do you intend to stop further building in addition to the fence until the fence is in?

B.McCrumb-Or can we pour the other footings (building) at the same time?

Funke-It makes sense to proceed with complimentary phases of the project as required (pouring of other concrete) and I will amend my motion to include that.

Vergeront-Is the wall of the fence attached to the building?

B.McCrumb-It goes right down to it. Also cannot backfill the fence until all of the walls are in.

C.Peterson-In order to obtain the excavator's services, they must get all of that particular type of work done at one time.

Grainey-I feel it would be a big mistake for the Council to become involved with timing of the construction project at this point. I suggest a time limit be set on completion of the fence and leave it at that.

G.Hess-I will allow a month.

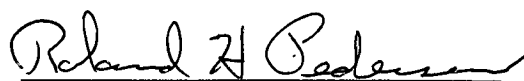
Funke-I will amend the motion to four weeks.

(Pedersen exited)

Vote was taken on the amended motion to allow the contractor four weeks for installation of the chain link fence on the western boundary of the project. Motion carried unanimously with Pedersen absent.

MAY CLAIMS: Motion Malgren, second Kersich to pay May claims #52796-52990 with the exception of the payment to Stensatter Druyvestein & Associates (\$12,895.97) for a total of \$151,186.77 as shown in the Claims Approval List.

Meeting adjourned at 9:06 p.m. Next Council meeting at 7:30 p.m. June 17, 1991.



Roland H. Pedersen
Council President

ATTEST:


Jayne Devlin
City Clerk